

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

ROBERT JOSEPH FIORE, II,)	
)	
Plaintiff,)	
v.)	1:15CV641
)	
H.L. CRADDOCK, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE

This matter comes before the Court on Plaintiff's Motion for Leave to File an Amended Complaint [Doc. #6]. By Recommendation dated January 27, 2016, the undersigned recommended that Plaintiff's Complaint be dismissed without prejudice to Plaintiff filing a new complaint on the proper § 1983 forms with the required filing fee. (Order and Rec. [Doc. #3] at 2.) The Court also instructed the Clerk to send Plaintiff new § 1983 forms with instructions. (Id.) On February 24, 2016, the District Judge adopted the Recommendation and entered Judgment dismissing Plaintiff's Complaint without prejudice to Plaintiff filing a new complaint on the proper forms accompanied by the \$400.00 filing fee. (Judgment [Doc. #5] at 1.) Thereafter, Plaintiff filed the instant Motion for Leave to File an Amended Complaint. However, Plaintiff has failed to include an Amended Complaint on the proper § 1983 forms accompanied by the \$400.00 filing fee in accordance with the Court's prior Judgment.¹ Accordingly, the Court will recommend that Plaintiff's Motion for Leave to

¹ The Court notes that although Plaintiff may have partially paid the filing fee in other cases, he has not paid the filing fee in the present case.

File an Amended Complaint be denied, without prejudice to Plaintiff filing a new complaint on the proper forms accompanied by the \$400.00 filing fee, as previously set out in the Judgment in this case.

IT IS THEREFORE RECOMMENDED that Plaintiff's Motion for Leave to File an Amended Complaint [Doc. #6] be denied without prejudice to Plaintiff filing a new complaint on the proper § 1983 forms accompanied by the \$400.00 filing fee, as set out in the Judgment in this case.

This, the 6th day of April, 2016.

/s/ Joi Elizabeth Peake
United States Magistrate Judge